

January 18, 2008

Maine Milk Commission Special Meeting Minutes  
Deering Building, Room 233  
Augusta, Maine 04333

Notices for the January 18, 2008 meeting were distributed to Commission members, intervenors and other interested parties December 21, 2007 and sent to the Secretary of State's Office for posting on December 19, 2007.

**Commission Present:** Chair, Michael Wiers, Katherine O. Musgrave, Colon Durrell and Tim Drake, *ex-officio* for Agriculture Commissioner Bradstreet.

**Commission Absent:** John Joseph Jr.

**Department Officials:** None

**Staff Present:** Stan Millay, Executive Director, and Carol Gauthier, Office Associate and Audrey Shorty, Resource Administrator.

**Legal Counsel:** Amy Mills, Assistant Attorney General not present.

**Intervenors Present:** John Blake, H.P. Hood, Inc., Tom Brigham Oakhurst Dairy and Julie-Marie Bickford Executive Director, Maine Dairy Industry Association (MDIA).

**Others Present:** Dale Cole MDIA, Chuck Farrand, Galen Larrabee, Walter Fletcher, dairy farmers and Dr. George Criner from the University of Maine.

Meeting called to order at 1:40 p.m. by chair Michael Wiers.

**Agenda Item 1: Minutes:** Colon Durrell made a motion to accept the minutes of the December 21, 2007 meeting as presented. Katherine Musgrave seconded. Motion passed 3-0.

**Agenda Item 2: Amy Mills, Assistant Attorney General:** No Report.

**Agenda Item 3: Minimum Prices:** Stan Millay reported that there is a prevailing premium of \$1.10/cwt on Class I for February 2008 reported by Dairy Marketing Services (DMS) and Agri-Mark Cooperative. In addition to this premium, both Agri-Mark and DMS reported that an additional \$0.75/cwt for milk that comes from producers who do not treat their cows with the rBST hormone will be in affect. Federal Order One Class I price for February is \$22.93. He explained that schedules were prepared using this information with a producer cost of production adjustment (COPA) of \$1.11/cwt. where it was for January prices. He stated that these price schedules were for discussion purposes and that the Commission was not bound to them, and should make their pricing determination after hearing testimony. Stan also reminded the Commission that the latest cost of production estimates from the University that were included in their material was only a continuation from 2004 data that may not be accurate now.

Julie-Marie Bickford agreed but informed the Commission that producers were experiencing increased costs in many areas including feed, fertilizer and fuel. She reminded the Commission that testimony presented to the Commission at the December meeting supported that. She stated that while it is true that producers were getting more money for their milk, it was off-set by higher costs of production and asked the Commission to consider the higher costs of producers and increase the cost of production adjustment.

Dale Cole reported that his costs were up. He said that he had information indicating that corn prices were going even higher and that Maine might experience availability problems. He pointed out that a decrease of \$1.29/cwt. in the Class I price from January meant a substantial decrease in producer payments. He asked the Commission to consider an increase in the cost of production adjustment of \$0.65/cwt. which is half of the Class I decrease of \$1.29/cwt. He said that this would not increase the retail minimum prices from January's level.

Chairman Wiers stated that he was concerned about increasing the cost of production adjustment. He said he believed producers costs were higher but questioned how far the Commission could increase it and not cause harm to other aspects of the Maine milk industry.

Colon Durrell said that he believed retail sales in Maine were declining and he thought the Commission needed to be mindful of it.

Julie-Marie Bickford said that producers are not paid on the Class I price. She stated that producers were concerned about decreased consumption as well. She pointed out that price volatility could affect sales. She pointed out that producers were not asking for the Commission to try to make up the entire cost of production deficit, only that a little be added to help provide a cushion. She went on to say that prices generally decline in late winter and spring and producers plan for that. She asked the Commission to consider an increase in the adjustment to help soften the blow of lower payments in February.

Tom Brigham reminded the Commission that the high Class I price in January was an increase December and is nearly the same as the decrease from January to February, therefore, the adjustment should not be increased.

Dale Cole said that producer costs had increased from December. He said producers wanted to be partners with others in the milk industry but should not have to absorb the cost of high shelf prices. He said he believed half of the Class I decrease of \$1.29 was justified given retail's lack of concern for declining sales.

John Blake pointed out that the handling fee kicked in for February and added 4 cents per gallon to the minimum price. He asked the Commission to proceed with caution when considering increases. He said the gap between prices in Maine and outside of Maine was getting further apart and was harmful to Maine processors.

Katherine Musgrave made a motion to set the cost of production adjustment at \$1.40 and adopt schedule #02-08 that included a \$22.93/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.85/cwt. as prevailing in neighboring states, plus \$0.47/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$26.85/cwt. Colon Durrell seconded.

Tom Brigham stated that a \$1.40/cwt. increase in the cost of adjustment was too much and pushed the limit beyond where it should be and is not in the best interest of sales and Maine's consumers. He said such a move would further weaken already declining sales. He pointed that higher prices of fluid milk and cheese had resulted in diminished sales of both commodities and he was afraid higher prices would make the problem worse.

Katherine Musgrave said that retail did not seem to care about declining sales given their high retail mark ups.

Tom Brigham said that in southern Maine prices were more responsive and seemed to him to be more competitive.

Dale Cole said that producers needed to recover their costs. He said that excessively high retail pricing was the cause of reduced sales, not producer prices. He said that taking from the producer will not change retail pricing.

Colon Durrell said he was concerned about making the cost of production adjustment too high and suggested it be something less.

Katherine Musgrave said she wanted a vote on her motion before considering something else. Vote called on the motion and was defeated 1-3 with Katherine Musgrave the only vote in favor.

Colon Durrell made a motion to set the cost of production adjustment at \$1.16/cwt. and adopt schedule #02-08 that included a \$22.93/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.85/cwt. as prevailing in neighboring states, plus \$0.47/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$26.61/cwt. Tim Drake seconded.

Chairman Wiers pointed out that the Commission is not the answer to fix producer costs. He said the Commission was not able to balance producer costs without hurting some other part on Maine's milk industry. He said he was convinced that there is a place where the Commission's pricing decisions can get out of balance enough to harm Maine's consumers. He said that he believed it was risky for the Commission to go higher than \$1.16/cwt. for a producer cost of adjustment. He said he did not believe the cost of production adjustment was designed to make cost recovery for producers. He said he would need much more information before he would support something more than \$1.16/cwt. under current conditions.

Julie-Marie Bickford disagreed, saying that the Commission had adopted higher costs of production adjustments in the past. She said she did not believe there was hard evidence to show that there was harm to processors by moving the adjustment higher than \$1.16. She stated that producers had offered more than enough evidence to show that producer costs had increased dramatically.

Chairman Wiers pointed out that cost of production adjustments in the past that were higher than \$1.16 were the result of desperation due to extraordinarily low milk prices with a Class I price much lower than they are now.

Motion passed 3-1 with Katherine Musgrave against.

**Agenda Item 4: Maine Monthly Price Survey:** The Commission reviewed the Maine price survey for January 2008 which included prices for Augusta and Bangor and the IAMCA milk price survey for December.

**Agenda Item 5: Next Scheduled Meetings:**

- February 22, 2008, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- March 21, 2008, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- April 18, 2008, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- May 23, 2008, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- June 20, 2008, Friday 1:30 p.m.  
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

## **Agenda Item 6: Other:**

1. **Milk Commission Budget:** The Commission reviewed the latest budget summary.
2. **Cost of Production Study:** Dr. Criner reported that the proposed cost of production study is on track with producer surveys going out around February 1.
3. **Rite Aid:** Stan reported that Rite Aid has been offering a 10% discount to certain people on Tuesdays and because of their already low milk prices caused below minimum prices sales and violated the Commission law. Stan reported that he had sent a letter to Rite Aid as directed by the Commission outlining their obligations under the law and asking for a plan of how they intended to have compliance in the future. They have not responded to date.
4. **Milk Promotions:** The Commission received information on two milk promotions.
5. **Dealer Cost and Accounting System:** Stan Millay discussed Chapter 5, Dealer Cost and Accounting System with the Commission. He pointed out that the rule was last reviewed in 1994 and should be discussed again. He asked that Commission members, intervenors and other interested parties review the rule and bring suggestions to the Commission. In the meantime he suggested that he, Dr. Criner and the effected dealers hold a meeting with Assistant Attorney General Amy Mills to discuss the rule and develop recommendations on where it might be improved. The Commission so directed.
6. **Chapter 2 Hearing Procedure:** Stan Millay suggested a review and hearing on this rule to see if it should be amended or eliminated. He said that it set forth rule making procedures similar to those in statute that the Commission followed anyway. The Commission directed that a public hearing be scheduled for March to take testimony on this rule.
7. **Retail Margins:** Stan Millay reported that the comment period on this rule will close January 29, 2008. The Commission will consider testimony and adopt any changes to Chapter 27 at the February 2008 regular meeting. Any new retail margins adopted will not be effective until the March meeting for April minimum prices. The Commission would need to hold a special meeting at least a week prior to the February 22, 2008 regular meeting in order to meet the rulemaking time lines to have new margins effective for March prices. Chairman Wiers stated that the public hearing on this rule would commence immediately following this meeting.

**Agenda Item 7: Executive Session:** The Commission did not go into Executive Session.

**Adjourned:** 2:40 p.m. (60 minutes)

Chairman Wiers opened the public hearing on Chapter 27 Retail Margins at 2:40 p.m.

Dr. George Criner testified to the results of the study that was conducted by the University of Maine. He reported that the gallon container had increased 83.99% from the 2002 level of \$0.1967 to \$0.3619, the half gallon container increased 45.35% from the 2002 level of \$0.1107 to \$0.1609 and that the quart container had decreased 2.58% from the 2002 level of \$0.0929 to \$0.0905.

No further testimony was received.

Hearing closed at 2.45 p.m. Stanley Millay, Executive Director, Maine Milk Commission.